

**REMARKS**

Claims 5, 6, 14, 17, 32-34, 37-40, 44, 55, 56, and 66 have been amended herein. Claims 49-52 have been canceled, without prejudice. Claims 1-48 and 53-72 are now pending.

Claims 5, 33, and 44 have been amended to correct typographical or clerical errors.

Claims 6, 14, 17, 32-34, 37-40, 55, and 56 have been amended to correct their dependencies and antecedencies.

Claims 49, 50, 51, and 52 have been canceled, without prejudice, because they were redundant in view of claims 41, 42, 48, and 44, respectively.

Claim 66 was amended to correct a clerical error. Support for this claim can be found at paragraph 0065 of the published application.

Applicants note that none of these amendments limit the claims from their original scope and none of the amendments were made for reasons related to patentability. No new matter has been added by these amendments; therefore, examination is requested on the claims as amended herewith.

**Response to Restriction Requirement**

In the Restriction Requirement, the Examiner restricted the application and required an election of one of following seven groups.

Group I, Claims 1, 8-21, 26-57, and 64-72 drawn to a method of inhibiting cancer cell proliferation;

Group II, Claims 2 and 22, drawn to a method of promoting cancer cell proliferation (sic; apoptosis);

Group III, Claims 3 and 23, drawn to a method of inhibiting re-adhesion of cancer cells to a surface;

Group IV, Claims 4-6 and 24, drawn to a method of inhibiting metastasis of cancer cells;

Group V, Claims 7 and 25, drawn to a method of inhibiting tumorigenesis;

Group VI, Claims 58-60, drawn to a method of inhibiting cancer comprising testing for an adenomatous polyposis coli mutation; and

Group VII, Claims 61-63, drawn to a method of inhibiting cancer cell proliferation comprising testing the subject for COX2 expression.

As required in response to this Action, Applicants elect Group I, claims 1, 8-21, 26-57, and 64-72, with traverse. Further, the Examiner also required an election of species from among different species of cancer and different species of compounds. Therefore, Applicants elect the following species with traverse: colon cancer and BAY 11-7082. Claims 1, 8-18, 20, 21, 26-32, 34-41, and 53 read on the elected species.

Applicants make these elections with traverse. 37 C.F.R. § 1.475 provides that national stage applications shall relate to one invention or to a group of inventions so linked as to form a single general inventive concept. Such inventions possess unity of invention. The requirement of a single inventive concept is fulfilled when there is a technical relationship within the claimed subject matter involving one or more of the same or corresponding special technical features. The special technical feature must define a contribution that the claimed subject matter makes over the prior art.

Applicants note that the claims all include administering a NF- $\kappa$ B inhibitor to a subject with cancer, and that this constitutes a special technical feature that defines a contribution that the claimed subject matter makes over the prior art. Thus, the pending claims all have the same corresponding technical feature and Applicants submit that all of the pending claims possess unity of invention. Because all of the pending claims possess unity of invention, the present restriction requirement is improper and must be withdrawn. Accordingly, applicants respectfully request rejoinder and examination of all of the claims.

The Examiner divided the claimed subject matter based on particular therapeutic effects recited in the claims (*i.e.*, inhibiting cancer cell proliferation (I), promoting cancer cell apoptosis (II), inhibiting re-adhesion of cancer cells to a surface (III), inhibiting metastasis of cancer cells (IV), inhibiting tumorigenesis (V), and inhibiting cancer (VI-VII)). Applicants submit that these effects represent, at best, separate limitations that do not define the special technical feature that defines all of the claimed subject matter. For example, promoting cancer cell apoptosis (Group II) is one example of inhibiting cancer proliferation (Group I). Similarly, inhibiting readhesion (Group III) is an example of inhibiting metastasis (Group IV) and tumorigenesis (Group V), and are all examples of inhibiting cancer proliferation (Group I). As discussed above, the claims all have administration of a NF- $\kappa$ B inhibitor to a subject with cancer as a special technical feature

and it is this common feature that gives the claims unity of invention. The error in the Office Action lies in choosing limitations in the claims that do not define the common subject matter between all of the claims. This is clearly improper at least because such an analytical approach to unity of invention would always allow a lack of unity of invention to be found (improperly) by the mere selection of limitations to analyze. There will always be some limitation that differs among claims even when the claims all have the same special technical feature. Such features cannot be used for analyzing unity of invention because they focus on differences between the claims rather than the similarities.

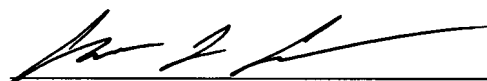
For the reasons stated above, Applicants respectfully assert that restriction of the claims as set forth by the Examiner would be contrary to promoting efficiency, economy and expediency in the Patent Office and further point out that restriction by the Examiner is discretionary (M.P.E.P. § 803.01). Examining all of the claims together would eliminate the necessity of prosecuting multiple, separate, yet intimately related applications. Thus, Applicants respectfully request that all of the claims of this application be examined together. Consequently, reconsideration and modification or withdrawal of the restriction requirement is requested.

**CONCLUSION**

Applicants elect Group I and the species colon cancer and BAY 11-7082, with traverse. Claims 1, 8-18, 20, 21, 26-32, 34-41, and 53 read on the elected group and species.

Included herewith is a Request for a Two-Month Extension of Time. Also, included herewith is payment in the amount of \$225.00 for the Two-Month Extension of Time Fee. This payment is to be charged to a credit card and such payment is authorized by the signed, enclosed document entitled: Credit Card Payment Form PTO-2038. No additional fees are believed to be due; however, the Commissioner is hereby authorized to charge any deficiency or credit any overpayment in fees to Deposit Account No. 14-0629.


Respectfully submitted,  
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**CERTIFICATE OF MAILING UNDER 37 CFR § 1.8**

I hereby certify that this correspondence and the documents mentioned therein are being deposited with the United States Postal Service in an envelope addressed to: MAIL STOP AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA. 22313-1450, on the date indicated below

  
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Christopher L. Curfman, JD, PhD

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Date May 16, 2007